

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES STEWARD,

Petitioner,

Case No. 2:15-cv-13011
Hon. Victoria A. Roberts

v.

PAUL KLEE,

Respondent.

**ORDER DENYING WITHOUT PREJUDICE PETITIONER'S MOTION FOR
APPOINTMENT OF COUNSEL [DKT. 3]**

On August 25, 2015, Petitioner Devon Shivers, a state inmate, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254, alleging that he is incarcerated in violation of his constitutional rights. Pending before the Court is Petitioner's motion to appoint counsel. For the reasons set forth below, the Court will deny the motion without prejudice.

The constitutional right to counsel in criminal proceedings provided by the Sixth Amendment does not apply to an application for writ of habeas corpus, which is a civil proceeding. *Cobas v. Burgess*, 306 F.3d 441, 444 (6th Cir. 2002), cert. denied, 538 U.S. 984 (2003), reh. denied, 539 U.S. 970 (2003). The Court has broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987). A habeas petitioner may obtain representation at any stage of the case "[w]henver the United States magistrate or the court determines that the interests of justice so require." 18 U.S.C. § 3006A(a)(2)(B). In this case, the Court has yet to receive a response from Respondent to the petition. The Court therefore finds that it is premature to determine whether justice requires appointment of counsel. The Court will reconsider this request on its own motion when it reviews the answer and state court record.

Accordingly, **IT IS ORDERED** that Petitioner's motion for appointment of counsel is **DENIED WITHOUT PREJUDICE**.

SO ORDERED.

S/Victoria A. Roberts
Honorable Victoria A. Roberts
United States District Judge

Dated: 10/6/2015